IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
    Anthony Aquila, et al.

Application No.: 09/825,604   Confirmation No.: 3275

Filed: April 3, 2001   Art Unit: 3626

For: SYSTEM AND METHOD OF   Examiner: Christopher L. Gilligan
        ADMINISTERING TRACKING AND
        MANAGING OF CLAIMS
        PROCESSING

Mail Stop: Appeal Brief

Amended Brief on Appeal Under 37 C.F.R. § 41.37

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

A Notification of Non-Compliant Appeal Brief (37 C.F.R § 41.37) was mailed May 21,

2008, stating that the Appeal Brief filed May 12, 2008 was defective under 37 C.F.R. § 41.37(c)

for failing to provide an appropriate signature. Appellant has amended the Brief to provide the

appropriate signature. Therefore, this Amended Appeal Brief should comply with 37 C.F.R. §

41.37(c).

A Notice of Appeal from the final rejection of claims 25, 73-82, 84-89, and 91-93 was

filed on March 10, 2008. Appellants hereby file one copy of this Appeal Brief, together with the

required fee set forth in 37 C.F.R. § 41.20(b)(2).

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 18-1953.

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I.   Real Party In Interest (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest in this appeal is Mitchell International, Inc, having its principal place of business at 9889 Willow Creek Road, San Diego, CA 92131. An assignment assigning all right, title and interest in and to the above-captioned patent application from inventors Anthony Aquila, Edward Schrenk, Patrick Cole, David Griffin, Mike Marsh, Christian Hassold, Fredrick Fisher, and Carlos Portal to Ensera, Inc. having its principal place of business at 975 Island Drive, Redwood Shores, CA 94065 was recorded in the U.S. Patent & Trademark Office (USPTO) on January 18, 2002 at Reel 012515, Frame 0274. An assignment assigning all right, title and interest in and to the above-captioned patent application from Ensera, Inc. to Mitchell International, Inc. was recorded in the U.S. Patent & Trademark Office on September 10, 2002 at Reel 013271, Frame 0465.

II.   Related Appeals and Interferences (37 C.F.R. § 41.37(c)(1)(ii))

Appellants, including the undersigned legal representative and the assignee of the above-captioned application, are aware of no pending appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board of Patent Appeals and Interferences ("the Board") in the pending appeal.

III.   Status of Claims (37 C.F.R. § 41.37(c)(1)(iii))

Claims 25, 73-78, 80-82, 84-89, and 91-93 are pending in the application. Claims 25, 73, and 84 are independent. Claim 1-24, 26-72, 79, 83, and 90 were cancelled. Claims 25, 73-78, 80-82, 84-89, and 91-93 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,810,383 to Loveland ("Loveland").

The rejection of claims 25, 73-78, 80-82, 84-89, and 91-93 is appealed.

IV.   Status of Amendments (37 C.F.R. § 41.37(c)(1)(iv))

Following the October 9, 2007 final Office Action, Appellants filed an amendment to the claims on May 8, 2008, pursuant to 37 C.F.R. §§ 41.33(a) and 1.116(b)(2) to present the claims in better form for consideration on appeal. Specifically, independent claims 25, 73, and 84 were amended.

Per the Patent Application Information Retrieval (PAIR), the amendment to the claims has been scanned into PAIR. However, there is insufficient information on PAIR to determine whether the amendment to the claims has been officially entered.

V.   Summary of Claimed Subject Matter (37 C.F.R. § 41.37(c)(1)(v))

The present invention provides a centralized system and method of administering, tracking and managing claims processing. The system collects initial claim data and determines a score for the claim based on the collected claim data. The score is then used to determine the priority of the claim. The system also classes the claim based on the collected claim data using business rules. The claim is then assigned to an assignee according to business rules. In assigning the claim, the system uses business rules that weigh the class more highly than the score.

Independent claim 25 is directed to a computer-implemented method for determining a type of assignee to whom to assign an insurance claim. The computer-implemented method receives data related to the insurance claim, the data comprising a plurality of data elements, a data element serving as an assignment criterion. (*See,* U.S. Published App. No. 2002/0035488

("Aquila"), e.g., figure 4, reference numeral 210; paragraphs 0111-0113). The method assigns a score to first and second data elements of the plurality of data elements based on scoring rules. (Aquila, e.g., figure 4, reference numeral 409, paragraphs 0173-200). Each data element includes one or more data from the group consisting of policy information, vehicle information, number of vehicles involved, repair cost, number of parties involved, time of incident, and location of incident; (Aquila, paragraphs 0173-200). The method then determines an overall score of the insurance claim based on the assigned scores and a class according to classing rules. (Aquila, e.g., figure 4, reference numerals 409 and 411; paragraphs 0209-0210, 0213-0218). Once the score and class have been determined, the method determines a type of assignee to whom to assign the insurance claim according to the application of business rules to the overall score of the insurance claim and the class of the insurance claim, wherein the business rules weigh the class more highly than the score. (Aquila, e.g., figure 4, paragraphs 0215-0224).

Independent clam 73 is directed to a computer-implemented method of selecting, from a plurality of types of assignees, a type of assignee to whom to assign an insurance claim. The computer-implemented method determines, based on data elements of the insurance claim, a claim score for first and second data elements. (Aquila, e.g., figure 4, reference numeral 409; paragraphs 0173-200). Each data element includes one or more data from the group consisting of policy information, vehicle information, number of vehicle involved, repair cost, number of party involved, time of incident, and location of incident. (Aquila, e.g., paragraphs 0173-200). The computer-implemented method determines an overall score for the insurance claim using each of the claim scores. (Aquila, e.g., figure 4, reference numeral 409; paragraphs 0209-0210). A class of the insurance claim is also determined based on the insurance claim. (Aquila, e.g.,

figure 4, reference numeral 411; paragraphs 0213-0218). The computer-implemented method also determines, based on the overall claim score and the class, the type of assignee. (Aquila, e.g., figure 4, reference numeral 413; paragraphs 0215-0224). After the overall claim score and class have been determined, the computer-implemented method assigns the insurance claim to the determined assignee. (Aquila, e.g., figure 4, reference numeral 413; paragraphs 0215-0224).

Independent claim 84 is directed to a computer program product comprising a computer useable medium having computer program logic embodied therein for enabling a computer system to select a type of assignee from a plurality of types of assignees. The computer program logic includes a computer readable program code that determines, based on data elements of the insurance claim, a claim score for first and second data elements, wherein each data element includes one or more data from the group consisting of policy information, vehicle information, number of vehicles involved, repair cost, number of parties involved, time of incident, and location of incident; (Aquila, e.g., figure 4, reference numeral 409; paragraphs 0173-200). The computer program logic includes a second computer readable program code that determines an overall score for the insurance claim using the claim scores. (Aquila, e.g., paragraphs 0209-0210). A third computer readable program code is included for determining, based on the insurance claim, a class of the insurance claim. (Aquila, e.g., figure 4, reference numeral 411; paragraphs 0213-0218). Finally, a fourth computer readable program code is included for determining, based on the claim score and the class, the type of assignee. (Aquila, e.g., figure 4, reference numeral 413; paragraphs 0215-0224).

VI.   Grounds of Rejection to be Reviewed on Appeal (37 C.F.R. § 41.37(c)(1)(vi))

The ground of rejection to be reviewed on appeal is whether claims 25, 73-78, 80-82, 84-89, and 91-93 are anticipated by U.S. Patent No. 6,810,383 to Loveland ("Loveland") under 35 U.S.C. § 102(e).

VII.   Argument (37 C.F.R. § 41.37(c)(1)(vii))

A.   Claims 25, 73-76, 78, 80-82, 84-87, 89, and 91-93

On page two of the final Office Action, claims 25, 73-78, 80-82, 84-89, and 91-93 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Loveland. Appellants respectfully traverse this rejection.

Claim 25 recites:

> A computer-implemented method of determining a type of assignee to whom to assign an insurance claim, the method comprising:
> receiving data related to the insurance claim, the data comprising a plurality of data elements, a data element serving as an assignment criterion;
> assigning a score to first and second data elements of the plurality of data elements based on scoring rules, wherein each data element includes one or more data from the group consisting of policy information, vehicle information, number of vehicles involved, repair cost, number of parties involved, time of incident, and location of incident;
> determining an overall score of the insurance claim based on the assigned scores;
> determining a class of the insurance claim according to classing rules; and
> determining a type of assignee to whom to assign the insurance claim according to the application of business rules to the overall score of the insurance claim and the class of the insurance claim, wherein the business rules weight the class more highly than the score.

Claim 25 is patentable over Loveland because Loveland does not teach or suggest each and every element of claim 25. Specifically, Loveland fails to teach or suggest "assigning a

score to first and second data elements of the plurality of data elements based on scoring rules, wherein each data element includes one or more data from the group consisting of policy information, vehicle information, number of vehicles involved, repair cost, number of parties involved, time of incident, and location of incident," and "determining an overall score of the insurance claim based on the assigned scores," as recited in claim 25.

1.   Loveland does not teach or suggest assigning a score to data elements.

On page two of the final Office Action, the Examiner alleged that Loveland teaches "assigning a score to first and second data elements of the plurality of data elements based on scoring rules . . ." as recited claim 25 at Col. 14, lines 35-44. Appellants respectfully disagree.

For convenience, the cited text at Col. 14, lines 35-44 of Loveland is recited below.

> Details of the automated assignment process are illustrated in FIG. 16 where, once claim data is entered 190, project parameters 192 are defined. To determine the project parameters 192 associated with a claim, the claim data is analyzed to determine the particular type of loss, such as a malfunctioning appliance under warranty, flood damage to a residence, fire damage, earthquake damage or some other loss. The approximate amount of the loss may also be determined. The geographical area in which the loss has occurred may also be a project parameter.

Loveland, Col. 14, lines 35-44. As described above, Loveland merely determines the project parameters associated with a claim by reviewing the claim data to determine a type of loss (e.g., warranty, flood damage, fire damage, or earthquake damage), an amount of loss, and a geographical area in which the loss has occurred. However, even assuming, *arguendo*, that a project parameter is a data element, Loveland does not teach or suggest assigning a score to one or more of those individual factors. Loveland makes no teaching whatsoever that a score is assigned to any one of these factors. Loveland merely identifies and lists them as project parameters, no scoring is actually performed.

In contrast, claim 25 recites, "assigning a score to first and second data elements of the plurality of data elements based on scoring rules." As stated above, Loveland merely teaches identifying project parameters but makes no mention of scoring them. Even if data elements are considered to be an equivalent of project parameters, Loveland fails to teach or suggest score is assigned to each of the project parameters.

For at least these reasons, Appellants respectfully submit that the rejection should be reversed.

2.   Loveland does not teach or suggest determining an overall score of insurance based on assigned scores.

On page two of the final Office Action, the Examiner alleged that Loveland teaches "determining an overall score of the insurance claim based on the assigned scores," as recited in claim 25 at Col. 15, lines 2-9. Appellants respectfully disagree.

The text at Col. 15, lines 2-9 of Loveland is recited below.

> Service history, purchase history and other data items may also be accessed to further define project parameters and facilitate automated assignment.
>
> In further reference to FIG. 16, an assignor or other party with financial responsibility for a project will be given a project acceptance option 196 once the project parameters 192 have been defined and appropriate rules applied 194.

Loveland, Col. 16, lines 2-9. As described above, Loveland teaches that service history, purchase history and other parameters are accessed and added to the record to "further define" the project parameters. This merely teaches that additional information can be accessed from the file, but does not teach or suggest determining an overall score based on the previously assigned scores. Teachings of further defining the project parameters is not a teaching of "determining an overall score . . . based on the assigned scores."

Neither is this taught by Loveland's description that once the project parameters have been defined, an assignor is given an option to accept or decline the project. Giving the assignor an option to accept or decline the project is not the same as determining an overall score using the previously assigned scores. More simply put, giving someone a yes or no option does not teach determining an overall score based on the assigned scores. Because Loveland fails to teach or suggest determining an overall score for the data elements based on the assigned scores, Appellants respectfully submit that claim 25 is patentable over Loveland for at least these additional reasons.

3.   Loveland does not teach or suggest determining a type of assignee based on the overall score and class of the insurance claim, and also weighting class more highly than the score.

As mentioned in the December 10, 2007 Reply to the final Office Action, Loveland is merely directed to an "assignment rotation" routine where "a list of all service providers is filtered to find a service provider qualified to perform the project at hand." Loveland, Col. 15, lines 29-30. In Loveland, the list of providers is filtered "to remove any service provider which are not pre-approved [or] which have received poor quality ratings or complaints." Id. at Col. 15, lines 41-45. "The list of qualified service providers 250 is further prioritized through a turn sequencing process 228 shown in detail in FIG. 20." Id. at Col. 15, lines 58-60. Referring to FIG. 20, Loveland teaches using the following criteria to assign a service provider: 1) customer's rules for weighting;   2) history of the last time an assignment was sent to service provider;   3) history of customer satisfaction;   and   4) history of performance track record. Nowhere does Loveland teach or suggest prioritizing the project by the overall score and the

class of the project parameters and to weight the project parameters class more than the overall

score.

In response to Applicants' arguments, the Examiner stated:

> the Examiner has interpreted the "type of loss" to be a form of the recited "class" and the final result of the project parameters being defined and appropriate rules applied to be a form of overall score of the claim. Therefore, when assigning the claim, the type of class of claim is weighted more highly because only those service providers who are qualified to perform that type of project are matched based on the assignment process.

Advisory Action, p. 2. However, even if the "type of loss" is a form of the recited "class,"

nowhere does Loveland teach or suggest that the "type of loss" is the main criterion used to

determine qualified service providers. Indeed, the Examiner has failed to cite to anywhere in

Loveland where such teaching or suggestion could be found. Additionally, nowhere does

Loveland teach or suggest that the type of loss is weighted more than other project parameters in

determining the type of assignee for a project. In fact, the main criteria that Loveland uses to

assign projects to service providers are the service providers' credentials and quality ratings, not

the "type of loss" or the class of the project.

In Loveland, "[c]redential data 20 and program rule data 42 are accessed to determine

which service providers are qualified to perform the project." Loveland, Col. 15, lines 25-27.

Loveland then removes service providers from the list of qualified service providers using

"quality parameters." *See* Loveland, Col. 15, lines 40-56. Quality parameters are not a type of

loss. Quality parameters, as described in Loveland, include quality ratings or complaints,

geographical location of the service provider, and ability of service provider. *Id.* Thus,

Loveland teaches that the criteria used are the qualifications and fit of the service providers in

assigning projects rather than the class and overall score of the projects. Accordingly, claim 25 is patentable over Loveland for at least these additional reasons.

Claims 73 and 84 are grouped together with claim 25 for the purpose of this appeal. In rejecting claim 73, the Examiner stated that claim 73 "contain[s] substantially similar limitations to those already addressed in claim 25 and, as such, are rejected for similar reasons given above." Final Office Action, p. 3. In rejecting claim 84, the examiner stated that it contains "substantially similar computer program product limitations to method claims 73-78 and 80-82 and, as such, are rejected for similar reasons as given above." *Id.* at p. 4.

Claim 73 recites, among other features:

determining, based on data elements of the insurance claim, a claim score for a first and second data elements, wherein each data element includes ...
determining an overall score for the insurance claim using each of the claim scores . . . .

Claim 84 recites, among other features:

determining, based on data elements of the insurance claim, a claim score for a first and second data elements, wherein each data element includes ...
determining an overall score for the insurance claim using each of the claim scores . . . .

Appellants agree for the purpose of this appeal that the above features of claims 73 and 84 are similar to the "assigning a score to a first and second data elements based on scoring rules . . ." and the "determine an overall score of the insurance claim based on the assigned scores" of independent claim 25, distinguished above with respect to Loveland. Accordingly, for at least the same reasons provided above with respect to claim 25, claims 73 and 84 are patentable over Loveland.

Claims 74-76, 78, and 80-82 depend from and add additional limitations to claim 73. Claims 85-87, 89, and 91-93 depend from claim 84. These dependent claims are thus patentable

over Loveland for at least the same reasons with respect to claim 73 and 84. Accordingly, the rejection of claims 25, 73-78, 80-82, 84-89, and 91-93 under 35 U.S.C. § 102(e) is improper and should be reversed.

B.   Claims 77 and 88

In rejecting claim 77, the Examiner stated that claim 77 "contain[s] substantially similar limitations to those already addressed in claim 25 and, as such, are rejected for similar reasons given above." Appellants respectfully disagree.

Claims 77 and 78 each recite the additional limitation of "determining, based on the claim score, a priority of the insurance claim." However, the Examiner has failed to cite to anywhere in Loveland where these limitations of claims 77 and 78 could be found

Moreover, nowhere does Loveland teach or suggest "determining, based on the claim score, a priority of the insurance claim," as recited in claims 77 and 88. For example, Loveland does not teach or suggest assigning a score to each of the project parameters and subsequently determining a priority of the project based on the score of the project parameters. As previously mentioned, Loveland merely teaches identifying and listing the project parameters, but no score is assigned to the project parameters. Thus, Loveland cannot prioritize projects based on scores because no scoring is computed in Loveland. Therefore, claims 77 and 88 are patentable over Loveland for at least these reasons.
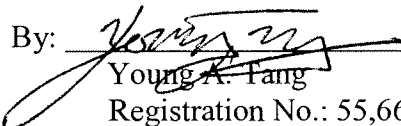
Accordingly, the rejection of claims 77 and 78 under 35 U.S.C. § 102(e) is improper and should be reversed.

C.   Conclusion

The subject matter of claims 25, 73-78, 80-82, 84-89, and 91-93 is patentable over the

cited art because the Examiner has failed to show that each and every feature of the claimed

embodiments is taught in the cited reference. Therefore, Appellants respectfully request that the

Board reverse the Examiner's final rejection of these claims under 35 U.S.C. § 102(e) and

remand this application for issue.

Dated: May 29, 2008	Respectfully submitted,
	By: _Young A. Tang_ Young A. Tang Registration No.: 55,665 SHEPPARD MULLIN RICHTER & HAMPTON LLP 333 South Hope Street, 48th Floor Los Angeles, CA 90071-1448 Telephone: (858) 720-8900 Facsimile: (858) 509-3691

VIII.   Claims Appendix

25.   A computer-implemented method of determining a type of assignee to whom to assign an insurance claim, the method comprising:

receiving data related to the insurance claim, the data comprising a plurality of data elements, a data element serving as an assignment criterion;

assigning a score to first and second data elements of the plurality of data elements based on scoring rules, wherein each data element includes one or more data from the group consisting of policy information, vehicle information, number of vehicles involved, repair cost, number of parties involved, time of incident, and location of incident;

determining an overall score of the insurance claim based on the assigned scores;

determining a class of the insurance claim according to classing rules; and

determining a type of assignee to whom to assign the insurance claim according to the application of business rules to the overall score of the insurance claim and the class of the insurance claim, wherein the business rules weight the class more highly than the score.

73.   A computer-implemented method of selecting, from a plurality of types of assignees, a type of assignee to whom to assign an insurance claim, comprising:

determining, based on data elements of the insurance claim, a claim score for first and second data elements, wherein each data element includes one or more data from the group consisting of policy information, vehicle information, number of vehicle involved, repair cost, number of party involved, time of incident, and location of incident;

determining an overall score for the insurance claim using each of the claim scores;

determining, based on the insurance claim, a class of the insurance claim;

determining, based on the overall claim score and the class, the type of assignee; and

assigning the insurance claim to the determined assignee.

74.   The method of claim 73, wherein an effect of the class on the type of assignee is weighted greater than an effect of the claim score on the type of assignee.

75.   The method of claim 73, wherein the claim score reflects a severity of the insurance claim.

76.   The method of claim 73, wherein the claim score is determined based on an element of a group comprising information regarding an insurance policy, information regarding a party involved in a loss, and information regarding how a loss was reported.

77.   The method of claim 73, further comprising determining, based on the claim score, a priority of the insurance claim.

78.   The method of claim 73, wherein an assignee comprises an element of a group comprising an insurance adjuster, a repair facility, an appraiser, and a rental provider.

80.   The method of claim 73, wherein an effect of the first data element on the claim score is greater than an effect of the second data element on the claim score.

81.   The method of claim 73, wherein each data element includes an element score, and wherein the claim score is based on the element scores of the data elements.

82.   The method of claim 73, further comprising:

determining a first set of profiles, wherein each profile in the first set represents a potential assignee of the determined type, and wherein each profile in the first set includes a profile score;

determining a second set of profiles, wherein the second set contains profiles in the first set that have the highest profile scores, and wherein each profile in the second set includes a measure of capacity to complete the insurance claim; and

determining, from the second set of profiles, a profile with the largest measure of capacity.

84.   A computer program product comprising a computer useable medium having computer program logic embodied therein for enabling a computer system to select a type of assignee from a plurality of types of assignees, said computer program logic comprising:

computer readable program code for determining, based on data elements of the insurance claim, a claim score for first and second data elements, wherein each data element includes one or more data from the group consisting of policy information, vehicle information, number of vehicles involved, repair cost, number of parties involved, time of incident, and location of incident;

a second computer readable program code for determining an overall score for the insurance claim using the claim scores;

a third computer readable program code for determining, based on the insurance claim, a class of the insurance claim; and

a fourth computer readable program code for determining, based on the claim score and the class, the type of assignee.

85.　　The computer program product of claim 84, wherein the fourth computer readable program code is configured to weight an effect of the class greater than an effect of the claim score in determining the type of assignee.

86.　　The computer program product of claim 84, wherein the claim score reflects a severity of the insurance claim.

87.　　The computer program product of claim 84, wherein the first computer readable program code determines claim score based on insurance policy information, information regarding a party involved in a loss, or information regarding how a loss was reported.

88.　　The computer program product of claim 84, further comprising computer readable program code for determining, based on the claim score, a priority of the insurance claim.

89.　　The computer program product of claim 84, wherein an assignee comprises an insurance adjuster, a repair facility, an appraiser, or a rental provider.

91.   The computer program product of claim 84, wherein the first computer readable program code weights an effect of the first data element on the claim score greater than an effect of the second data element on the claim score.

92.   The computer program product of claim 91, wherein a data element includes an element score, and wherein the first computer readable program code determines claim score based on the element scores of the data elements.

93.   The computer program product of claim 84, further comprising:

computer readable program code for determining a first set of profiles, wherein each profile in the first set represents a potential assignee of the determined type, and wherein each profile in the first set includes a profile score;

computer readable program code for determining a second set of profiles, wherein the second set contains profiles in the first set that have the highest profile scores, and wherein each profile in the second set includes a measure of capacity to complete the insurance claim; and

computer readable program code for determining, from the second set of profiles, a profile with the largest measure of capacity.

IX.   Evidence Appendix

None

X.   Related Proceedings Appendix

None